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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,729	11/20/2003	Roger L. Stolte	1149.1101101	8697

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/717,729	STOLTE ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2 pages</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claims 1, 7, 33, 34, 36, 38, and 44 are objected to because of the following informalities:

Independent claims 1, 33, 34, 36 and 38 recite the acronym "HEDTA". It is suggested that the first occurrence of the term, i.e., in claim 1 be spelled out followed by the acronym in parentheses.

In claims 7 and 44, line 1 of each claim, it is suggested that "a" after "comprises" be deleted. In addition, in claim 7, last line, "a" before "baits" should also be deleted, or "baits" be rewritten in singular form.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-9, 11-18, 21, 22, 34, 36, 38, 42-46, 48-55, 58 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Curry et al. (US Patent No. 4,560,492), hereinafter "Curry".

Curry teaches the preparation of detergent compositions by spray drying a water slurry of the following components to provide granular detergent compositions (which read on solid composition) which comprise sodium C12 alkylbenzenesulfonate, sodium tallow alkyl sulfate (both are anionic surfactants which also read on functional ingredients and organic detergents),

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sodium carbonate (an alkali metal salt, also a source of alkalinity, and also an inorganic detergent), sodium aluminosilicate (a builder), sodium silicate (another builder and source of alkalinity), sodium polyacrylate, sodium HEDTA (hydroxyethylethylenediaminetriacetic acid), in amounts of 2 wt%, 5 wt% and 3 wt%, respectively, sodium nitrilotriacetate (a chelating agent or sequestering agent), the remainder being sodium sulfate, water and miscellaneous ingredients (see Example III, Compositions A, B and C, col. 12, lines 11-28). Another preferred anionic surfactant includes water-soluble alkyl sulfates (having straight alkyl radicals), see col. 3, lines 1-16. The composition can also contain nonionic surfactants such as the condensation product of ethylene oxide with a straight aliphatic alcohol having about 8 to about 24 carbon atoms (see col. 3, lines 26-45). The composition does not contain components that can compete with the HEDTA for water and interfere with solidification as required in claims 18 and 55. The mixing of the ingredients, which comprises HEDTA and water, inherently distributes these components throughout the solid cleaning composition and binds the functional ingredient within the solid composition as required in claims 6 and 43, and also inherently fulfills the requirements in the instant claims wherein the HEDTA and water cooperate to form a solid binding agent. Curry teaches the limitations of the instant claims. Hence, Curry anticipates the claims.

4. Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Griffin, Jr. et al. (US Patent No. 5,472,633), hereinafter "Griffin".

Griffin teaches a chelate solution comprising trisodium salt of HEDTA and water (see Example 4, col. 4, lines 25-35). Inasmuch as the chelate solution of Griffin comprises HEDTA and water as required in the instant claim, the HEDTA should inherently cooperate with the

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water in the formation of a binding agent. The phrase "agent for a solid composition" is an intended utility and is not given patentable weight. Hence, Griffin anticipates the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-69 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wei et al. (US Patent No. 6,258,765), hereinafter "Wei".

Wei teaches a solid block functional material which is formed by a binding agent which comprises a phosphonate or amino acetate sequestrant, a carbonate salt and water in an E-form hydrate (see abstract). In the E-form hydrate binder, for each mole of organic phosphonate or

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amino acetate there is about 5 to 15 molar parts of water based on the binder weight (see col. 2, lines 9-12). The E-form binder hydrate binding component is distributed throughout the solid and binds hydrated carbonate and non-hydrated carbonate and other detergent components into a stable solid block detergent (see col. 2, lines 61-64). The solid block can also contain other common additives such as surfactants, builders, alkaline source, soil antiredeposition agents, defoamers, rinse aids, dyes, perfumes, etc., and are preferably substantially free of a component that can compete with the alkali metal carbonate for water of hydration and interfere with solidification (see col. 3, lines 6-14; col. 7, lines 51-57). The detergent preferably contains less than a solidification interfering amount of the second alkaline source, and can contain less than 5 wt. %, preferably less than 4 wt. %, of common alkalinity sources including either sodium hydroxide or an alkaline sodium silicate (see col. 3, lines 14-19). The total amount of water present in the solid block is less than 11 to 12 wt% water based on the total chemical composition (see col. 3, lines 48-52) and the organo amino acetate sequestrant which includes HEDTA can be present at amounts of about 0.1 to 70 wt%, preferably 5 to 60 wt% of the solid block (see col. 4, lines 62-63). The term solid block includes extruded pellet materials having a weight of 50 grams up through 250 grams, an extruded solid with a weight of about 100 grams or greater or a solid block detergent having a mass between about 1 and 10 kilograms (see col. 4, lines 4-8). The block is also prepared as a cast solid (see col. 4, lines 31-34). One useful amino acetate binding sequestrant is N-hydroxyethyl-ethylenediaminetriacetic acid (HEDTA), see col. 5, lines 20-26, 38-41. The composition also includes a chelating/sequestering agent such as a condensed phosphate like sodium tripolyphosphate (see col. 5, lines 26-28, 43-46). Suitable surfactants include anionic surfactants such as alkylsulfonates (see col. 7, line 4), nonionic

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surfactants such as alcohol alkoxylates (see col. 7, lines 12-22). A method of processing the solid cleaning composition comprises mixing the ingredients to form a substantially homogeneous consistency wherein the ingredients are distributed substantially evenly throughout the mass and the mixture is then discharged from the mixing system through a die or other shaping means, or it may be cast or extruded directly into the container (see col. 12, line 17 to col. 13, line 42). Wei teaches the limitations of the instant claims. Hence, Wei anticipates the claims. Even if the teachings of Wei are not sufficient to anticipate the claims, it would have been nonetheless obvious to one of ordinary skill in the art at the time the invention was made to prepare a solid composition wherein the binding agent comprises HEDTA and water in their optimum proportions because the teachings of Wei encompass these ingredients and proportions.

8. Claims 19-20 and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry as applied to the above claims, and further in view of Magari et al. (US Patent No. 4,416,809), hereinafter "Magari".

Curry teaches the features as described above. Curry, however, fails to specifically disclose the amount of water in the spray-dried composition.

Magari teaches a spray dried granular detergent composition wherein the water content after spray drying is present in the range from 2-3 wt% of the composition (see Table 1 under col. 5-6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the water content in the spray dried detergent composition of

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Curry to be in the range from 2-3 wt% because it is known from Magari that a detergent composition which is spray dried usually contains such amount of water.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-11, 13, 15-16, 23, 28-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7, 8, 12-13 of U.S. Patent No. 6,258,765. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that US '765 recites a generic organo amino acetate in the binding agent. HEDTA of the present application, however, is a species of the generic organo amino acetate of US '765.

11. Claims 1-11, 13, 15-16, 23, 28-31 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7, 8, 13-16 of U.S. Patent No. 6,653,266. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that US '266 recites a generic organo amino acetate in the binding agent. HEDTA of the present application, however, is a species of the generic organo amino acetate of US '266.

12. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 75 of U.S. Patent No. 6,660,707. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that the present application requires water in the binding agent. US '707, however, recites a binding agent which comprises sufficient amounts of hydrated sodium carbonate, hence, the water of hydration in the carbonate of US '707 reads on the water of the present application.

13. Claims 1-8, 13, 15-16, 31-32, 34 and 36 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7-8, 10, 12-13 of copending Application No. 10/714,836. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that the copending application recites a generic organo amino acetate in the binding agent. HEDTA of the present

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application, however, is a species of the generic organo amino acetate of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1-11, 15-16, 23, 29-48, 50, 52-53, 60 and 66-69 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 23, 27, 28, 32, 33, 35-37, 39, 47, 48, 52, 74, 75, 80, 81, 82, 83, 86 and 87 of copending Application No. 09/874,841. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that the copending application recites a generic organo amino acetate in the binding agent. HEDTA of the present application, however, is a species of the generic organo amino acetate of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1-11, 15-16, 23, 29-48, 50, 52-53, 60 and 66-69 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 41-46 of copending Application No. 10/714,355. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that the copending application recites a generic organo amino acetate in the binding agent. HEDTA of the present

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application, however, is a species of the generic organo amino acetate of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 45 of copending Application No. 11/009,315.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar solid compositions comprising similar ingredients differing only in that the present application requires water in the binding agent. The copending application, however, recites a composition comprising moles of water per mole of carbonate, hence said water reads on the water in the binding agent of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

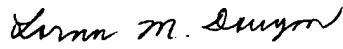
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313.

The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
Art Unit 1751